

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FINJAN LLC,

Plaintiff,

V.

TRUSTWAVE HOLDINGS, INC., and
SINGAPORE TELECOMMUNICATIONS
LIMITED,

Defendants.

C.A. No. 20-371-RGA

FINJAN'S INTERIM STATUS REPORT

OF COUNSEL:

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Dated: May 5, 2022

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Pursuant to paragraph 15 of the Scheduling Order, D.I. 83 (the “Scheduling Order”), Plaintiff Finjan, LLC submits the following interim status report. Counsel for defendants Trustwave Holdings, Inc., and Singapore Telecommunications Limited (collectively, “Trustwave”) declined to join in this status report.

A. Trustwave Is Not Complying With the Court’s Orders and Continues To Impede Discovery

Finjan filed this action on March 16, 2020 alleging infringement of U.S. Patent No. 8,141,154 (the “’154 Patent”). (D.I. 1). Discovery is governed by the Court’s June 21, 2021 Scheduling Order that requires document production to be substantially complete by April 21, 2022 (D.I. 83 at ¶ 8(b)). Despite Finjan’s best efforts, Trustwave failed to comply with the Court’s Scheduling Order and the Court’s Order on Finjan’s Motion to Compel.¹ (*Id.* at ¶ 15.)

1. Trustwave’s Document Production Is Deficient

Finjan accuses 14 Trustwave products and services of infringing the ’154 Patent (the “Accused Products”). Unfortunately, despite Finjan’s best efforts, Trustwave refuses to comply with the Court’s Scheduling Order and the Court’s Order on Finjan’s Motion to Compel.

Trustwave has not yet fully produced its core technical documents and sales figures for the accused products. Paragraph 7(b) of the Scheduling Order obligates Trustwave to produce: (i) “core technical documents related to the accused product(s), sufficient to show how the accused product(s) work(s) including but not limited to non-publicly available operation manuals, product literature, schematics, and specifications,” and (ii) “sales figures for the accused product(s).” (D.I. 83 ¶ 7(b).) The Court’s Scheduling Order included an August 27, 2021 deadline so that the parties could meaningfully participate with other discovery, such as deposing witnesses, reviewing source

¹ The parties previously mediated with Judge Fallon and continue to have serious discussions and may request another referral.

code and finalizing infringement contentions and responses. Unfortunately, Trustwave did not comply.

Finjan raised these issues with the Court in October, 2021. (D.I. 109.) The Court held a discovery hearing on October 26, 2021 and ordered Trustwave to disclose the requested technical and financial information for the Accused Products. (D.I. 119.) The Court granted Finjan's request to "compel a complete production of technical and financial information pursuant to Paragraph 7(b)." (D.I. 132.) Trustwave has not yet complied with the Court's order.

Finjan cannot complete its infringement and damages discovery without these basic documents. The lack of the discovery (documents, executable code and source code) has prevented Finjan from seeking the Court's other assistance on completing discovery in accordance with the Court's order.

2. Finjan Requests A Status Conference

Finjan respectfully requests a status conference to discuss compliance with the Court's: (1) scheduling order; and (2) previous order granting Finjan's motion to compel. Finjan will continue to meet and confer with Trustwave on any further outstanding issues so that they can be resolved expeditiously to avoid further delays.

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Respectfully submitted,

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